City of Lafayette
Staff Report
Planning Commission

Meeting Date: April 21, 2025
Staff: Greg Wolff, Planning & Building Director
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Subject: **Housing Element Implementation**

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PURPOSE AND SUMMARY

The City Council directed final revisions to the Housing Element Update on April 22, 2024 followed by the required seven-day public review period and then submission to the State Department of Housing

and Community Development (HCD). Staff submitted the Revised Draft Housing Element Update to HCD on May 13, 2024 and the City received HCD's review letter on July 12 finding that the element will comply with State law following completion of necessary rezoning and re-adoption of the element by the City Council.

On January 13, 2025, the City Council approved amendments to the Municipal Code and Zoning Map, rezoning of certain areas, and establishing objectives development standards. The revisions rezone areas generally in the downtown plus additional properties to permit multiple-family residential up to 35 dwelling units per acre, rezone area in the downtown to permit multiple-family residential up to 60 dwellings units per acre, establish objective development standards, including height limits and setbacks, to achieve proposed densities, and establish a minimum density of 88% on 'opportunity sites' identified in the 6th Cycle Housing Element.

IMPLEMENTATION SCHEDULE

The City Council also readopted the 6th Cycle Housing Element (HE), allowing staff to submit the document to the California Department of Housing and Community Development (HCD). The HE calls for the start of certain programs in 2023. Implementation was delayed due to work needed to obtain State certification. Staff is now starting on certain programs that can be easily implemented through minor code revisions.

SCOPE AND ORGANIZATION

This report covers full or partial implementation of eight programs in the Housing Element, entailing proposed changes to the Lafayette Municipal Code, described in greater detail below. HCD has previously indicated that these items should be completed early in the eight-year cycle. The topics are numbered from 1 to 10 for easier navigation. Under each topic heading, this report includes the following subsections:

- Housing Element Implementation Language – language from the Council-approved Housing Element as submitted to HCD.
- Existing Code, as applicable—describes how the issue is currently treated in the code, or whether it is silent on the matter.
- Proposed Amendments—describes the proposed text amendments to each item
- Alternatives—describes any other alternatives for addressing the topic at hand. These alternatives are not reflected in the draft ordinance but could be incorporated at the PC's direction.

Staff is seeking the PC's confirmation that the draft ordinance amendments address the program language that should move forward to the Council's review.

6.1.c Inclusionary Housing Ordinance
7.1.d Permanent Supportive Housing
7.1.e Group Homes for Seven or More Persons
7.1.f Emergency Shelters
7.1.g Reasonable Accommodation
10.3.c Farmworker Housing
10.3.d Low Barrier Navigation Centers

10.3.e "Family" Definition

1. Permanent Supportive Housing

Program language:

7.1.d Supportive Housing. Supportive Housing shall be a by-right use in zones where multifamily and mixed-uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. To be consistent with AB 2162, the City will allow by-right 100% affordable housing that has 25% or 12 units of permanent supportive housing, where multifamily or mixed-use housing is permitted. Group homes of seven or more persons will be considered through an objective process similar to other residential uses of the same form. [NOTE: The program language regarding group homes is addressed in item 7.1.e (below)].

Existing Code:

Supportive housing (LMC 6-534) is already a permitted use in all multifamily, business, and commercial districts zones and all single-family zones except one: In the R-12 zone, only residential care facilities for the elderly (RCFE) are allowed, which is a subset of supportive housing.

Proposed Amendment:

To demonstrate compliance with AB 2162, staff recommends adding a new subsection section to Chapter 6-5 General Provisions (immediately following (f), Transitional Housing) to address this requirement. The following is verbatim language from the Government Code section 65651(a).

6-534 (g) Permanent Supportive Housing.

Permanent supportive housing shall be a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development satisfies all of the following requirements:

1) Units within the development are subject to a recorded affordability restriction for 55 years.

2) One hundred percent of the units, excluding managers' units, within the development are dedicated to lower income households and are receiving public funding to ensure affordability of the housing to lower income Californians. For purposes of this paragraph, "lower income households" has the same meaning as defined in Section 50079.5 of the Health and Safety Code.

3) At least 25 percent of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing who meet criteria of the target population. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.

4) The developer provides the planning agency with the information required by Government Code Section 65652 pertaining to documentation demonstrating that supportive services will be provided onsite and describing those services.

Alternatives: It is unclear why the broader definition of supportive housing is not permitted in the R-12 zoning district, which only allows RCFEs. For consistency, the City can consider revising "6-742 - Uses permitted" (c) as follows:

Supportive care pursuant to §6-534 LMC;

2. Group Homes for Seven or More Persons

Program language:

7.1.e The City will adopt Zoning Code amendments to allow group homes for seven or more residents, specifically for people with disabilities, as a permitted use in zones where residential is allowed. Group homes of seven or more persons will be considered through an objective process similar to other residential uses of the same form.

Existing Code:

Group homes are referenced in three locations within the Municipal Code:

Chapter 6-5, General Provisions (specifically 6-534, Supportive Care Criteria)
Chapter 6-11.5, Senior Housing Overlay District (specifically definitions, 6-1153)
Chapter 6-34, Reasonable Accommodation (specifically definitions, 6-3402)

The only one referencing limits to size is 6-534, Supportive Care Criteria:

> (b) Group Home. The provision of 24-hour residential care for six or fewer minors, by licensed staff in a structured environment as further defined in the California Health and Safety Code Section 1502.

Proposed Amendment:

As group homes are not limited to minors, the language in 6-534 should be revised to encompass all types of group homes specifically called out in State law. A recommended approach could be to use information in HCD's technical advisory to define group homes.

> (b) Group Home. The provision of 24-hour residential care for a wide variety of persons with special needs, including but not limited to licensed group homes, unlicensed group homes, recovery residences or sober living homes, and community care facilities in any of the following configurations: six or fewer minors, by licensed staff in a structured environment as further defined in the California Health and Safety Code Section 1502.

1) Group Homes that Do Not Provide Licensable Services. The City will permit group homes that operate as single-family residences and that do not provide licensable services to locate in all residentially-zoned neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.

2) Group Homes that Provide Licensable Services to Six or Fewer Residents. The City will permit group homes that operate as single-family residences and that provide licensable services to six or fewer residents to locate in in all residentially-zoned neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.

3) Group Homes that Provide Services to Seven or More Residents with Disabilities. The City will permit group homes that operate as single-family residences and that provide service to seven or more residents with disabilities to locate in all residentially-zoned neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.

Alternatives: In order to be consistent with the State's guidance, staff has not identified any alternatives to the proposed language.

3. Emergency Shelters

Program language:

7.1.f The City will adopt Zoning Code amendments to ensure compliance with emergency shelter requirements, including for parking (Gov. Code 65583 (a)(4)(A)), as well as AB 2339. Capacity will be based on at least 200 square feet per person, and any other aspect of the existing code that is contrary to State law will be amended to be in compliance. The City will amend the definition of emergency shelters to include other forms of interim housing. In addition, emergency shelters will be permitted by-right without discretionary review.

Existing Code:

"Chapter 6-35 – Emergency Shelters" provides only a narrow definition of shelters:

> **6-3502 - Definition of emergency shelter.** "Emergency shelter" means housing with minimal supportive services that is designed for and occupied by homeless persons for no more than six-months in a consecutive 12-month period. No individual or household may be denied emergency shelter because of an inability to pay.

HCD's guidance here requires that the definition of shelters be expanded to include (but not limited to) interim uses, navigation centers, bridge housing and respite/recuperative care.

Proposed Amendment:

The City should amend the code to read as follows:

> **6-3502 - Definition of emergency shelter.**
> In this chapter, unless the context otherwise requires:
> "Emergency shelter" includes, but is not limited to, shelters, interim uses, navigation centers, bridge housing, and respite or recuperative care. It is intended that the housing provided by these uses be of short term, not permanent housing, and consistent with best practices for these interim uses.

Additional Proposed Amendments: Permitting

In conducting research on emergency shelters in the Lafayette, Municipal Code, staff notes that emergency shelters are only allowed with a permit in the C-1 District. Although the provisions of 6-3504 suggest that the review is not discretionary, HCD will likely find the language using the word "permit" problematic anyway. Existing text follows:

> **6-3503 - Permit required.**
> An emergency shelter that complies with the provisions of this Chapter shall be permitted within the General Commercial District 1 (C-1), pursuant to an emergency shelter application.

The following are suggested revisions to clarify the City does not require special use or conditional use permit:

6--**3503 - By-Right Allowance .**
An emergency shelter that complies with the provisions of this Chapter shall be permitted within the General Commercial District 1 (C-1), pursuant to an emergency shelter application.

6--**3504 - - Emergency shelters application and issuance.**

(a) An application for an emergency shelter - shall be filed with the Zoning Administrator on a form approved by the City together with a fee fixed by resolution of the City Council. The Zoning Administrator shall approve an application that meets the development standards set forth in Section 6-3505 without discretionary review or a public hearing, as soon as practicable, and in no event more than 30 days after the application has been deemed complete.

(b) Pursuant to Section 6-250 of the Lafayette Municipal Code, this approval shall expire one year from the approval date unless a building permit has been issued for the project. The Zoning Administrator may extend the period to exercise the permit for up to one additional year upon a showing of good cause, if such request is received in writing prior to the expiration date.

Additional Proposed Amendments: Parking

In addition, 7.1.f notes the code should be update with current requirements "*including for parking (Gov. Code 65583 (a)(4)(A)), as well as AB 2339.* Gov. Code 65583 (a)(4)(A) states that there must be "(ii) Sufficient parking to accommodate all staff working in the emergency shelter, provided that the standards do not require more parking for emergency shelters than other residential or commercial uses within the same zone." Note that these provisions only pertain to employes and not the clients. The City's current code for parking is as follows:

6-3505 (2) Vehicle Parking. An emergency shelter shall provide one parking space for every four beds and one parking space for every employee.

Off-street parking requirements in the C-1 district for non-residential uses are varied and based on the type of commercial activity and the size of the development. Staff looked at commercial uses that could stand as a proxy for an emergency shelter, and examples include:

Health care activity	8: 1,000 SF
Hospitals…. and convalescent homes	8: 1,000 SF
Medical service activity	3.3: 1,000 SF
Medical, Dental Offices, Clinics	3.3: 1,000 SF

However, these uses are not a good proxy because emergency shelters involve a mix of employees and residents, rather than commercial uses where people come and go for services. To illustrate what these ratios would require for an emergency shelter, assume a development is proposed with 30 beds, the limit on capacity in Lafayette. With 200 square feet per resident, this equals 6,000

square feet, plus an additional number of square feet for offices, communal space, etc. Were such a development to total, say, 8,000 SF, the parking requirement for staff would be 26 spaces.

This is significantly higher than what the current code requires - one parking space for every four beds and one parking space for every employee. In our example above, 30/4 beds = 8 spaces for residents. Although the number of staff for a shelter will depend on the level of need of the residents, typical case management loads are one staff to 15 residents, or in this case two case managers. Even if more staff are needed, the total would not approach 18 employees (26 spaces – 4 for residents = 18 for staff). For these reasons, staff recommends leaving the parking requirement of the current code as is.

Additional Proposed Amendments: Capacity

With respect to capacity, 7.1.f requires that "*Capacity will be based on at least 200 square feet per person".* However, there is no language specifying the number of square feet per person in the municipal code. Rather, the code references capacity based on number of beds:

> 6-3505(4) Shelter Capacity. No emergency shelter shall contain more than 30 beds. The city council may establish a maximum number of beds to be allowed in all emergency shelters in the city by resolution. The maximum number of beds in all emergency shelters in the city shall not be less than the number of unsheltered homeless persons in Lafayette as determined in the bi-annual homeless count conducted by the Contra Costa Homeless Program.

The recommended language change is as follows:

> 6-3505(4) Shelter Capacity. No emergency shelter shall contain more than 30 beds, and the size of the facility must accommodate clients at a ratio of at least 200 square feet per person. The city council may establish a maximum number of beds to be allowed in all emergency shelters in the city by resolution. The maximum number of beds in all emergency shelters in the city shall not be less than the number of unsheltered homeless persons in Lafayette as determined in the bi-annual homeless count conducted by the Contra Costa Homeless Program.

4. Reasonable Accommodation

Program language:

7.1.g To approve a Reasonable Accommodation request for housing for persons with disabilities, the Zoning Code requires findings be made that no detrimental impacts would result aesthetically, or to surrounding uses, properties, or structures. Some of these findings are considered subjective. The City will revise the Zoning Code to include only objective findings that can provide certainty in outcomes.

Existing Code:

The existing code language at 6-3407 identifies specific findings that must be made in order to approve an accommodation. One of those could be construed as arbitrary and vague:

- *(c) Potential impact on surrounding uses;*

In reviewing other examples of reasonable accommodation language, staff confirmed that the City's other findings are typically used in other jurisdictions and represent sufficient coverage of aspects of concern with an accommodation request.

Proposed Amendment:
The City could simply strike section (c) from the code, and renumber the remaining findings.

Alternative Amendment:
Another example from HCD Guidance is below. The following may be more acceptable to the State than simply removing the one sentence, because one could still construe some of the findings as subjective, in the sense that they do not clearly say what is allowed and what is not allowed, including (d).

> Required Findings. The written decision to grant, grant with modifications, or deny a request for reasonable accommodation shall be consistent with fair housing laws and based on the following factors:
>
> a) Whether the housing, which is the subject of the request for reasonable accommodation, will be used by an individual with disabilities protected under fair housing laws;
>
> b) Whether the requested accommodation is necessary to make housing available to an individual with disabilities protected under the fair housing laws;
>
> c) Whether the requested accommodation would impose an undue financial or administrative burden on the jurisdiction and;
>
> d) Whether the requested accommodation would require a fundamental alteration in the nature of the jurisdiction's land use and zoning or building program.

5. Farmworker Housing

Program language:
10.3.c The City will amend the its Municipal Code to treat employee/farmworker housing that serves six or fewer persons as a single-family structure and permit it in the same manner as other single-family structures of the same type within the same zone across all zones that allow single-family residential uses. ***The amendment will also treat employee/farmworker housing consisting of no more than 12 units or 36 beds as an agricultural use and permit it in the same manner as other agricultural uses in the same zone****, in compliance with the California Employee Housing Act (Health and Safety Code Sections 17021.5 and 17021.6).*

Existing Code:
Farmworker housing is not identified in the code.

Proposed Amendment:
Options include the following:

a. Add farmworker housing to the definition of single-family dwelling:

6-350 - Single-family dwelling.
"Single-family dwelling" means a dwelling including one and only one kitchen, designed for occupancy as a residence of one family and located on a single lot of its own. This includes manufactured homes certified under the National Manufactured Home Construction and Safety Standards Act of 1974, and any subsequent revisions thereto, and conforming to the requirements of Section 6-527 of this code. Employee/farmworker housing that serves six or fewer persons is included in this definition.

b. The other option is to add it to the definition of group homes:

6-534 - Supportive care criteria….
h. Employee/Farmworker Housing. Employee/farmworker housing that serves six or fewer persons as a single-family structure and permit it in the same manner as other single-family structures of the same type within the same zone across all zones that allow single-family residential uses.

In terms of the second part of this program -- treating employee/farmworker housing in 12 units or 36 beds as an agricultural use, there are no mapped Ag zones in Lafayette. Although zone A-2 is listed in the code, it is not currently mapped. It should be noted that at one time there existed a map online that erroneously showed a single parcel zoned A-2, in fact it is zoned LR-10.

Proposed Amendment:
Eliminate references to Agricultural zones in the zoning text and any maps. Specifically, eliminate the following zoning districts from the LMC, making sure to conform General Plan language and Ladn Use Designations.
- Chapter 6-13, Article 2. - General Agricultural District
- Chapter 6-13, Article 3. - Heavy Agricultural District

Alternative Amendment:
In order to be consistent with the State's guidance, staff has not identified any alternatives to the proposed language.

6. Low Barrier Navigation Centers

Program language:
10.3.d The City shall amend its Zoning Ordinances to ensure compliance with State law to allow low barrier navigation centers by right in mixed-use zones and nonresidential zones permitting multifamily uses.

Existing Code:
Low Barrier Navigation Centers are not defined in the code. AB 101 requires a Low Barrier Navigation Center (LBNC) to be permitted by right in areas zoned for mixed use and nonresidential zones permitting multifamily uses if it meets specified requirements. A LBNC is defined as a Housing First, low barrier, temporary, service-enriched shelter focused on helping homeless individuals and families to quickly obtain permanent housing. Low barrier includes best practices to reduce barriers to entry, such as allowing partners, pets, storage of personal items, and privacy. (Gov. Code, § 65660.).

Proposed Amendment:
Because both permanent supportive housing and LBNC are required to be a use by right in any zone that permits multifamily housing, staff recommends adding a new subsection section to Chapter 6-5 General Provisions (entitled 6-536 "Supportive care criteria") to address this requirement. The following is verbatim from Gov. Code 65662.

6-534 (h) Low Barrier Navigation Centers.
Low Barrier Navigation Centers are a use permitted by in all areas zoned for mixed use and nonresidential zones that permit multifamily housing if the following criteria are met:

1. It offers services to connect people to permanent housing through a services plan that identifies services staffing.

2. It is linked to a coordinated entry system, so that staff in the interim facility or staff who co-locate in the facility may conduct assessments and provide services to connect people to permanent housing. "Coordinated entry system" means a centralized or coordinated assessment system developed pursuant to Section 576.400(d) or Section 578.7(a)(8), as applicable, of Title 24 of the Code of Federal Regulations, as those sections read on January 1, 2020, and any related requirements, designed to coordinate program participant intake, assessment, and referrals.

3. It complies with Chapter 6.5 (commencing with Section 8255) of Division 8 of the Welfare and Institutions Code.

4. It has a system for entering information regarding client stays, client demographics, client income, and exit destination through the local Homeless Management Information System as defined by Section 578.3 of Title 24 of the Code of Federal Regulations.

Alternative Amendment:
In order to be consistent with the State's guidance, staff has not identified any alternatives to the proposed language.

7. "Family" Definition

Program language:
10.3.e Ensure that the definition of "family" is consistent with State and Federal law.

Existing Code:
Family is defined in the code as follows:

6-323 - Family. "Family" means (a) an individual, (b) two or more persons related by blood, marriage or legal adoption, or (c) a group of not more than five persons, excluding servants, who are not related by blood, marriage or legal adoption, living together as a single nonprofit housekeeping unit in a dwelling unit, as distinguished from a hotel, club, fraternity or sorority house, dormitory or boarding house. A family includes necessary servants.

While this is mostly consistent with State and federal law, limiting the number of unrelated persons is not allowed, nor is the requirement that the unrelated people are living together as a nonprofit housekeeping unit.

Proposed Amendment:
The City should amend the code to read as follows:

Section 6-323 Family.
"Family" shall mean one or more persons occupying a dwelling unit as a single housekeeping unit. (See "Single Housekeeping Unit.")

6-350.5 Single Housekeeping Unit.

"Single Housekeeping Unit" means use of a dwelling unit in a way that satisfies each of the following criteria:

1. The residents have established ties and familiarity and interact with each other.

2. Membership in the single housekeeping unit is fairly stable as opposed to transient or temporary.

3. Residents share meals, household activities, expenses, or responsibilities.

4. All adult residents have chosen to jointly occupy the entire premises of the dwelling unit and they each have access to all common areas.

5. If the dwelling unit is rented, each adult resident is named on and is a party to a single written lease that gives each resident joint use and responsibility for the premises.

6. Membership of the household is determined by the residents not by a landlord, property manager or other third party.

7. The residential activities of the household are conducted on a nonprofit basis.

8. Residents generally do not have separate entrances or separate secured food-storage facilities such as cabinets or refrigerators.

Alternative Amendment:
In order to be consistent with the State's guidance, staff has not identified any alternatives to the proposed language.

8. Inclusionary Housing Ordinance

Program language:
The Housing Element contains Program 6.1.c and AFFH 2.2 related to the City's inclusionary housing regulations and calls for evaluation and adjustment of the existing rules. Additionally, Program 6.1.c states that the geographic target is for multifamily development throughout the community.

Existing Code:
The City's existing Inclusionary Housing Ordinance can be found in its entirety in Attachment 3.

Proposed Amendment:

The one out of the four purposes of the existing Inclusionary Housing Ordinance is to disperse affordable housing units throughout the downtown area, boundaries of the Downtown Specific Plan. Staff is proposing to remove references to the downtown area and replace them, as necessary, with references to Citywide application. Other objectives from the HE will be incorporated into future housing implementation efforts.

Alternative Amendment:
In order to be consistent with the Housing Element program objective, staff has not identified any alternative to the proposed language.

9. "Vacant Lot" Definition

The Housing Element contains no specific language related to the definition of "Vacant Lot." However, the Housing Element generally calls for the implementation of State Housing laws.

Existing Code:
The City has no existing definition.

Proposed Amendment:
Many State laws, including SB 1123, are implemented differently on vacant lot versus currently developed lot. In order to avoid confusion from the public and staff in implementing required State laws, staff recommends adding a definition for "Vacant Lot" that provides clear language on when different regulation can be applied to a specific site. The following definition uses existing State language and City policy:

"Vacant lot" means any parcel or lot having no permanent structures, is undeveloped, or contains a permanent structure that is abandoned and uninhabitable for a period of at least one year.

Alternative Amendment:
In order to be consistent with existing City practice and State guidance, staff has not identified any alternatives to the proposed language.

10. Zoning Code Summary Land Use Table

The Zoning Code Summary Land Use Table has been used for several years as a resource, but has never been adopted by Council. The table contains a summary of all the land uses permitted by right, uses permitted with approval of a Land Use Permit, or not permitted in all the zoning districts within the City. The summary table also clarifies that multifamily projects on properties identified in the Housing Element as Opportunity Sites, which provide at least 20% of units for lower income households shall be approved ministerially, per Government Code Section 65583.2. Staff does not propose any changes to the permitted uses, uses permitted with approval of a Land Use Permit, or not permitted. Staff recommends incorporating the Zoning Code Summary Land Use Table into the zoning ordinance to codify a useful resource and demonstrate compliance with State Law.

ENVIRONMENTAL REVIEW

An EIR was prepared and certified (with an Addendum) and the subject implementation is covered by this prior EIR. No further environmental review is necessary.

PUBLIC NOTICE

As the Housing Element Update affects more than 1,000 residents and direct mailing to all potentially affected parties is not practical, a display advertisement ran in the Lafayette Sun on April 11, 2025. Further, the matter was posted on the City's web site and promoted on the City's social media channels including the City's electronic newsletter. Lastly, all those who have subscribed to the City's e-notification service for the Planning Commission or General Plan Update topics received direct email notification.

PUBLIC COMMENT

No public comments have been received on this topic from April 11, 2025 12:00PM to April 17, 2025 12:00PM. Public comments on this matter received after April 17, 2025 12:00PM and prior to Monday, April 21, 2025 12:00PM will be posted to the agenda on the City's website and forwarded to the Planning Commission shortly after the deadline.

RECOMMENDATION

Staff recommends that the Planning Commission discuss the proposed text amendments, provide direction to staff, and continue the hearing to May 5, 2025 for approval of Resolution 2025-03 recommending that the City Council adopt Zoning Text Amendments to Title 6 of the Lafayette Municipal Code, modifying Title 6, Part 2, Chapter 6-3 "Definitions", Chapter 6-5, Article 1, Section 6-534 "Supportive care criteria", Part 7, Chapter 6-34, "Reasonable Accommodation", Chapter 6-35 "Emergency Shelters", and Chapter 6-37 "Inclusionary Housing" and Repeal Title 6, Part 3, Chapter 6-13, Article 2 "General Agricultural District" and Article 3 "Heavy Agricultural District" to comply with California State Law and program implementation of Lafayette's Housing Element.

ATTACHMENTS

1. Resolution 2025-03
2. Draft Ordinance 2025-XX
3. Proposed Zoning Text Amendments

LINKS

6th Cycle Housing Element (adopted December 2024)
https://drive.google.com/drive/folders/1GHs2htrtt1QkeQ4msS31IDVh0bxChQGr

RESOLUTION 2025-03

BEFORE THE PLANNING COMMISSION OF THE CITY OF LAFAYETTE, IN THE MATTER OF:

ZT01-25 Housing Element Implementation II: City-initiated Zoning Text Amendment to Title 6 of the Lafayette Municipal Code, modifying Title 6, Part 2, Chapter 6-3 "Definitions", Chapter 6-5, Article 1, Section 6-534 "Supportive care criteria", Part 7, Chapter 6-34, "Reasonable Accommodation", Chapter 6-35 "Emergency Shelters", and Chapter 6-37 "Inclusionary Housing," Adding a Zoning Code Summary Table to Part 3 "Land Use Districts," and Repeal Title 6, Part 3, Chapter 6-13, Article 2 "General Agricultural District" and Article 3 "Heavy Agricultural District" to comply with California State Law and program implementation of Lafayette's Housing Element.

WHEREAS, the Planning and Zoning Law authorizes cities to act by ordinance to provide for the creation and implementation of housing regulations; and

WHEREAS, in recent years, the California Legislature has approved, and the Governor signed into law, a number of bills that, among other things, amended various sections of the Government Code to impose a number of new housing laws; and

WHEREAS, the Legislature of the State of California has declared that the availability of housing is of vital statewide importance, especially housing that is available to low-income households; and

WHEREAS, toward this objective, the City of Lafayette provides a variety of programs to address these housing needs in its adopted Housing Element; and

WHEREAS, on April 11, 2025, the City gave public notice of the public hearing for the proposed ordinance by publishing in a newspaper of general circulation of a Planning Commission public hearing at which the ordinance would be considered; and

WHEREAS, on April 21, 2025, the Planning Commission, following notification to the public in the prescribed manner, conducted a public hearing, where it received written and oral testimony, including a written staff report, and recommended continuation of the public hearing to May 5, 2025; and

WHEARES, on May 5, 2025, the Planning Commission adopted Resolution 2025-03, recommending that the City Council adopt an ordinance amending and restating Title 6, Part 2, Chapter 6-3 ("Definitions"), Chapter 6-5, Article 1, Section 6-534 ("Supportive care criteria"), Part 7, Chapter 6-34, ("Reasonable Accommodation"), Chapter 6-35 ("Emergency Shelters"), Chapter 6-37 ("Inclusionary Housing"), adding a Zoning Code Summary Table to Part 3 ("Land Use Districts"), and Repeal Title 6, Part 3, Chapter 6-13, Article 2 ("General Agricultural District") and Article 3 ("Heavy Agricultural District") to comply with California State Law of the Lafayette Municipal Code; and

WHEREAS, the Lafayette City Council certified the Housing Element Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP) on January 23,

2023 and adopted an Addendum to the EIR and MMRP on December 16, 2024. The Commission finds that the project is sufficiently covered by the EIR, MMRP and Addendum.

NOW, THEREFORE, THE PLANNING COMMISSION DOES RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

Section 1. CEQA. The Planning Commission recommends that the City Council find that, Housing Element Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP) and Addendum and sufficiently addresses California Environmental Quality Act ("CEQA") requirements. Therefore, adoption of the proposed ordinance does not require any further action under CEQA.

Section 2. General Plan; Additional Findings. The Planning Commission hereby finds that the adoption of the proposed ordinance is consistent with the General Plan as a matter of law under Government Code section 66314(c). Additionally, based on the entire record before the Planning Commission and all written and oral evidence presented, the Planning Commission hereby finds that the proposed ordinance is consistent with the City's adopted General Plan as amended under the Revised Draft Housing Element dated December 16, 2024. The proposed ordinance does not otherwise conflict with any of the General Plan's goals or policies.

As further required by Lafayette Municipal Code Section 6-213, the Planning Commission hereby makes and adopts the following findings:

a. *The change proposed is consistent with the general plan and each element of it.*

As part of the ongoing 2020 General Plan Update, the Housing Element, adopted January 2023 and readopted December 2024, includes several policies and programs related to ADU housing including the following:

> Program H-7.1.d: Permanent Supportive Housing. Supportive Housing shall be a by-right use in zones where multifamily and mixed-uses are permitted, including nonresidential zones permitting multifamily uses pursuant to Government Code section 65651. The City will allow by-right 100% affordable housing that has 25% or 12 units of permanent supportive housing. Group homes of sevens or more persons will be considered through an objective process similar to other residential uses of the same form.
>
> Program H-7.1.e: Group Homes for Seven or More Persons. The City will adopt Zoning Code amendments to allow group homes for seven or more residents, specifically for people with disabilities, as a permitted use in zones where residential is allowed.
>
> Program H-7.1.f: Emergency Shelters. The City will adopt Zoning Code amendments to ensure complication with emergency shelter requirements, including parking. Capacity will be based on at least 200 square feet per person. The City will amend the definition of

emergency shelter and will be permitted by-right without discretionary review.

Program H-7.1.g: Reasonable Accommodation. The City will adopt Zoning Code amendments to incorporate only objective findings into the reasonable accommodation regulations.

Program H-10.3.c: Farmworker Housing. The City will amend the Zoning Code to treat employee/farmworker housing that serves six or fewer persons as a single-family structure and permit it in the same manner as other single-family structures of the same type within the same zone. The amendment will also treat employee/farmworker housing consisting of no more than 12 units or 36 beds as an agricultural use and permit it in the same manner as other agricultural uses in the same zone.

Program H-10.3.d: Low Barrier Navigation Center. The City will amend its Zoning Code to ensure compliance with the State law to allow low barrier navigation centers by right in mixed-use zones and nonresidential zones permitting multifamily uses.

Program H-10.3.e: "Family" Definition. Ensure that the definition of "family" is consistent with State and Federal law.

Program H-6.1.c: Inclusionary Housing Ordinance. Expand the application of the City's Inclusionary Housing Ordinance city-wide.

The General Plan states the most important goal of the housing element is to achieve an adequate supply of safe, decent housing for all residents of Lafayette. Updating the City's zoning code to incorporate the requirements mandated by statewide legislation will ensure that the City is able to realize its goals of decent housing for all residents while maintaining its unique identity. The proposed zoning text amendments ensure the City's ability to prioritize the provision of adequate housing opportunities for all income levels. Additionally, the City's 2002 Land Use Element contains no land uses designation for specifically classified for agricultural uses, eliminating agricultural zoning districts will ensure consistency between the General Plan and the Zoning Code.

b. *In the case of a general land use regulation, the proposed change is compatible with the uses authorized in, and the regulations prescribed for, the land use district for which it is proposed; and with the regulations for other land use districts.*

The proposed zoning text amendment maintain the City's ability to regulate objective development standards to ensure that the critical housing needs are meet and are compatible with existing uses within specific zoning districts.

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c. Community need is demonstrated for the change proposed.
The proposed zoning text amendment address critical housing needs within the City by clarifying and refining existing zoning regulations to support a diverse range of housing types, including emergency shelters, supportive, and farmworker housing, as required by State law.

Section 3. Recommendation. Given the foregoing, and based on the entire record before the Planning Commission, hereby recommends that the City Council adopt the attached proposed ordinance Attachment A.

Section 4. Record of Proceedings. The location and custodian of the documents and any other material which constitute the record of proceedings upon which the Planning Commission based its decision is as follows: City Clerk, City of Lafayette, 3675 Mt. Diablo Blvd #210, Lafayette, CA 94549.

Section 5. Effective Date. This resolution takes effect immediately upon adoption.

PASSED AND ADOPTED by the Planning Commission of the City of Lafayette at a regular meeting held on the 5th of May, 2025, by the following vote to wit:

AYES:
NOES:
ABSTAIN:
ABSENT:

APPROVED:

_____
Stephen LaBonge
Planning Commission Chair

ATTEST:

_____
Greg Wolff
Planning & Building Services Director

ATTACHMENT(S):
Exhibit "A" – Proposed Zoning Text Amendments to Title 6, Part 2, Chapter 6-3 ("Definitions"), Chapter 6-5, Article 1, Section 6-534 ("Supportive care criteria"), Part 7, Chapter 6-34, ("Reasonable Accommodation"), Chapter 6-35 ("Emergency Shelters"), Chapter 6-37 ("Inclusionary Housing"), Adding a Zoning Code Summary Table to Part 3 ("Land Use Districts,") and Repeal Title 6, Part 3, Chapter 6-13, Article 2 ("General Agricultural District") and Article 3 ("Heavy Agricultural District")

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Attachment 2

BEFORE THE CITY COUNCIL OF THE CITY OF LAFAYETTE

IN THE MATTER OF:

An Ordinance of the City Council of the City of Lafayette Amending and Adopting Title 6, Part 2, Chapter 6-3 ("Definitions"), Chapter 6-5, Article 1, Section 6-534 ("Supportive care criteria"), Part 7, Chapter 6-34, ("Reasonable Accommodation"), Chapter 6-35 ("Emergency Shelters"), Chapter 6-37 ("Inclusionary Housing"), Adding a Zoning Code Summary Table to Part 3 ("Land Use Districts"), and Repeal Title 6, Part 3, Chapter 6-13, Article 2 ("General Agricultural District") and Article 3 ("Heavy Agricultural District")	))))))))	Ordinance No. xxx

WHEREAS, the City of Lafayette, California (the "City") is a municipal corporation, duly organized under the constitution and laws of the State of California; and

WHEREAS, on January 23, 2023, the Lafayette City Council certified the Housing Element Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP), and adopted the 6th Cycle Housing Element Update to the Lafayette General Plan;

WHEREAS, on December 16, 2024, the Lafayette City Council adopted an Addendum to the certified Housing Element Environmental Impact Report (EIR) and Mitigation Monitoring and Reporting Program (MMRP), and adopted the Revised Housing Element Update to the General Plan and the revised Land Use Element and map;

WHEREAS, the City desires to implement the Housing Element Implementation Plan submitted to the California Department of Housing and Community Development on May 13, 2024; and

WHEREAS, the Housing Element Implementation requires amendments to the Municipal Zoning Code and rezoning of parcels requiring amendments to the zoning map, consistent with the other elements of the General Plan.

WHEREAS, on December 2, 2024, the Planning Commission conducted a duly noticed public hearing, where it received written and oral testimony including a written staff report; after consideration and deliberation, the Commission recommended adoption of an Addendum to the Certified Housing Element EIR and adopted Resolution 2024-04 and 2024-15, forwarding an approval recommendation to the City Council for the Housing Element and rezonings; and

WHEREAS, On December 6, 2024, the City published legal notice of this public hearing of the City Council pursuant to California Government Code Section 65090; and

WHEREAS, on December 16, 2024, the City Council conducted a duly noticed public hearing, where it received written and oral testimony, including a written staff report, and at which time all persons wishing to testify in connection with the matter were heard and fully studied. After consideration and deliberation, the City Council introduced Ordinance No. 696 to rezone properties, waived the first reading, and continued the matter to January 13, 2025 for a second reading and adoption and adopted Resolution No. 2024-47to adopt the Housing Element; and

WHEREAS, on January 13, 2025, the City Council, waived the second reading and adopted Ordinance No. 696; and

WHEREAS, on April 21, 2025 and May 5, 2025, the Planning Commission conducted a duly noticed public hearing, where it received written and oral testimony including a written staff report, after consideration and deliberation, the Commission recommended adoption of the amended zoning text, adopting Resolution 2025-03, forwarding the approval recommendation to the City Council; and

WHEREAS, on XXXX XX, 2025, the City Council conducted a duly noticed public hearing where it received written and oral testimony, including a written staff report, and at which time all persons wishing to testify in connection with the matter were heard and fully studied. After consideration and deliberation, the City Council introduced Ordinance No. XXX, waived the first reading, and continued the matter to XXX XX, 2025 for a second reading and adoption.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAFAYETTE DOES ORDAIN AS FOLLOWS:

Section 1. The recitals above are each incorporated by reference and adopted as findings by the City Council.

Section 2. Pursuant to the California Environmental Quality Act (Pub. Res. Code §§ 21000 et seq.) ("CEQA"), and the State CEQA Guidelines (14 Cal. Code Regs. §§ 15000 et seq.) the City determined that an Environmental Impact Report (EIR) be prepared for the Housing Element pursuant to CEQA in order to analyze all potential adverse environmental impacts of the City's Housing Element Update to its General Plan and Housing Element Implementation; the City prepared and certified the Final EIR (FEIR) on January 23, 2023 for the Housing Element, consisting of comments received during the 60-day public review and comment period on the Draft FEIR, written responses to those comments, and revisions and errata to the Draft FEIR. For the purposes of this Resolution, the "FEIR" shall refer to the Draft FEIR, as revised by the Final FEIR's errata section, together with the other sections of the Final FEIR; the FEIR (State Clearinghouse #2021080038) was certified, and the Housing Element Update was approved and adopted by the City on January 23, 2023 pursuant to the certified FEIR;

Pursuant to CEQA, staff prepared, and the City Council adopted an addendum to the FEIR concerning the Housing Element ("Addendum"), pursuant to State CEQA Guidelines Section 15164, subdivision (c), the Addendum is not required to be circulated for public review, but can be included within the public record with the FEIR;

Section 3. Title 6, Part 2, Chapter 6-3 ("Definitions"), Chapter 6-5, Article 1, Section 6-534 ("Supportive care criteria"), Part 7, Chapter 6-34, ("Reasonable Accommodation"), Chapter 6-34 ("Emergency Shelters"), and Chapter 6-37 ("Inclusionary Housing"), Adding a Zoning Code Summary Table to Part 3 ("Land Use Districts"), and Replead Title 6, Part 3, Chapter 6-13, Article 2 "General Agricultural District" and Article 3 "Heavy Agricultural District" to comply with California State Law and Replead Title 6, Part 3, Chapter 6-13, Article 2 ("General Agricultural District") and Article 3 ("Heavy Agricultural District") are hereby amended and adopted as provided in Exhibit "A" attached hereto and incorporated herein by reference.

Section 4. This ordinance takes effect thirty (30) days after its adoption.

Section 5. The City Clerk shall either: (a) have this ordinance published in a newspaper of general circulation within fifteen (15) days after its adoption or (b) have a summary of this ordinance

published twice in a newspaper of general circulation, once five (5) days before its adoption and again within fifteen (15) days after its adoption.

Section 6. The City Clerk shall submit a copy of this ordinance to the Department of Housing and Community Development within sixty (60) days after adoption.

Section 7. If any provision of this ordinance or its application to any person or circumstance is held to be invalid, such invalidity has no effect on the other provisions or applications of the ordinance that can be given effect without the invalid provision or application, and to this extent, the provisions of this ordinance are severable. The City Council declares that it would have adopted this ordinance irrespective of the invalidity of any portion thereof.

Section 8. The location and custodian of the documents and any other material that constitute the record of proceedings upon which the City Council based its decision is as follows: City Clerk, City of Lafayette, 3675 Mt. Diablo Blvd #210, Lafayette, CA 94549.

The foregoing ordinance was introduced at a regular meeting of the City Council held on the XX day of XXXX 2025, and duly adopted at the next regular meeting of the City Council held on the XX day of XXXX, 2025 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

ATTEST:

_____
Joanne Robbins, City Clerk

APPROVED:

_____
Susan Candell, Mayor

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EXHIBIT "A"

Lafayette Municipal Code Title 6, Part 2, Chapter 6-3 ("Definitions"), Chapter 6-5, Article 1, Section 6-534 ("Supportive care criteria"), Part 7, Chapter 6-34, ("Reasonable Accommodation"), Chapter 6-35 ("Emergency Shelters"), Chapter 6-37 ("Inclusionary Housing"), Adding a Zoning Code Summary Table to Part 3 ("Land Use Districts"), and Repeal Title 6, Part 3, Chapter 6-13, Article 2 ("General Agricultural District") and Article 3 ("Heavy Agricultural District")

[BEHIND THIS PAGE]

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Title 6 - PLANNING AND LAND USE

Part 2. - General Regulations

Chapter 6-3 DEFINITIONS

Sections:

6-301 General.

The definitions in this chapter govern the construction of this title unless the context otherwise requires. Unless the natural construction of the word indicates otherwise, the present tense shall include the future and the plural number shall include the singular.

(Ord. 221 § 4 (part), 1980)

6-302 Accessory building.

"Accessory building" means a subordinate building of 120 square feet or less, the use of which is incidental to that of a main building on the same lot.

(Ord. 221 § 4 (part), 1980)

(Ord. No. 655, § 3, 12-20-2016)

6-303 Accessory use.

"Accessory use" means a use incidental and accessory to the principal use of a lot, or a use accessory to the principal use of a building located on the same lot.

(Ord. 221 § 4 (part), 1980)

6-304 Accessory sign.

"Accessory sign" means any surface, or portion thereof, on which lettered, figured or pictorial matter is displayed for the purpose of advertising or identifying goods and services sold or produced on the property upon which the surface is located.

(Ord. 221 § 4 (part), 1980)

6-305 Agriculture.

"Agriculture" means the tilling of soil, the raising of crops, horticulture, dairying and the raising and managing of livestock, including all uses customarily incident, but not including slaughterhouses, fertilizer yards, bone yards, plants for the reduction of animal matter, or any other industrial use which may be objectionable because of odor, smoke, dust or fumes.

(Ord. 221 § 4 (part), 1980)

6-306 Apartment unit.

"Apartment unit" means a separate suite, including kitchen facilities, designed for and occupied as the home, residence or sleeping place of one or more persons living as a single housekeeping unit.

(Ord. 221 § 4 (part), 1980)

6-307 Average dwelling unit density.

"Average dwelling unit density" is expressed as one dwelling unit per the unit of area that results from dividing the entire area of a parcel of residentially zoned land proposed for subdivision by the proposed number of lots. In computing average dwelling unit density, those portions of lots lying within the exterior boundaries of an existing or proposed public road, street, highway, right-of-way or easement owned, dedicated or used for purposes of vehicular access shall not be included in order to satisfy minimum area requirements. Example: eight hectares is proposed to be divided into four lots. A private road easement will require 0.2 hectare, an area which cannot be counted in the calculation of average dwelling unit density. Therefore, since eight hectares minus 0.2 hectare equals 7.8 hectares, which, when divided by four lots, equals 1.95 hectares, the proposed average dwelling unit density is one unit for each 1.95 hectares. That is, average dwelling unit density H (8 F 0.2 % 4) H 1.95 hectares per unit.

(Ord. 221 § 4 (part), 1980)

6-308 Average width.

"Average width" of a lot is the total area of the lot divided by the depth of the lot.

(Ord. 221 § 4 (part), 1980)

6-309 Reserved.

6-310 Reserved.

6-311 Reserved.

6-312 Building.

"Building" means any structure with a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

(Ord. 221 § 4 (part), 1980)

6-313 Building height.

"Building height" means the vertical distance between the average of the highest and lowest grade at the lowest foundation wall (measured at existing grade or finished grade, whichever is lower) and the (1) highest point of a flat roof or (2) deck line of a mansard roof or (3) average height of the highest gable of a pitched or hip roof.

(Ord. 494 § 1, 1999: Ord. 221 § 4 (part), 1980)

6-314 Repealed by Ordinance 266.

6-315 Repealed by Ordinance 240.

6-316 Depth of a lot.

"Depth of a lot" means the distance normal to the frontage to the point of the lot farthest from the frontage.

(Ord. 221 § 4 (part), 1980)

6-317 District.

"District" means a portion of the territory of the city within which certain uses of land, buildings and structures are permitted; certain other uses of land, buildings and structures are not permitted; certain yards and other open spaces are required, and certain minimum lot areas and maximum heights are established for buildings and structures, under the regulations of this title.

(Ord. 221 § 4 (part), 1980)

6-318 Repealed by Ordinance 266.

6-319 Duplex.

"Duplex" means a detached building or part of it, designed for occupancy as the residence of two families living independently of each other.

(Ord. 221 § 4 (part), 1980)

6-320 Dwelling—Dwelling unit.

"Dwelling" or "dwelling unit" means a room or suite of rooms designed or occupied as separate living quarters for one of the persons or groups specified in Section 6-323 of this chapter.

(Ord. 240 § 3, 1981)

6-321 Existing grade.

"Existing grade" means the elevation of the ground surface prior to any disturbance of the site resulting from construction of the proposed improvements.

(Ord. 494 § 2, 1999)

6-322 Flag lot.

"Flag lot" means a lot, which is configured in the general shape of a flag on a pole, in which access from the street is accomplished by an easement, license or fee interest at least 20 feet in width through or along side another lot for creation of a private driveway (pole portion) connecting the building site (flag portion) of the lot to the street.

(Ord. 468 § 2, 1998)

6-323 Family.

~~"Family" means (a) an individual, (b) two or more persons related by blood, marriage or legal adoption, or (c) a group of not more than five persons, excluding servants, who are not related by blood, marriage or legal adoption, living together as a single nonprofit housekeeping unit in a dwelling unit, as distinguished from a hotel, club, fraternity or sorority house, dormitory or boarding house. A family includes necessary servants.~~

"Family" shall mean one or more persons occupying a dwelling unit as a single housekeeping unit. (See "Single Housekeeping Unit.")

(Ord. 221 § 4 (part), 1980)

6-324 Front yard.

"Front yard" means an open area extending across the front of a lot, measured toward the rear of the lot to the nearest line of any building on it. If any setback is established by this Part 2 of this title for a lot, the area between the setback line and the boundary line that determines the position of the setback line shall constitute the front yard of the lot.

(Ord. 221 § 4 (part), 1980)

6-325 Frontage.

"Frontage" of a lot means the distance measured between the two points on the principal road, street or access that are farthest apart.

(Ord. 221 § 4 (part), 1980)

6-326 Half story.

"Half story" means that portion of a building under a gable, hip or gambrel roof, the top wall plates of which on at least two opposite exterior walls are not more than three feet above the floor of such building portion.

(Ord. 221 § 4 (part), 1980)

6-327 Home occupation.

"Home occupation" means an activity conducted by a person at his principal place of residence as a means of livelihood or in expectation of profit, which may involve not more than one nonresident employee employed in the home occupation, and which:

(a) Does not change the residential character of the dwelling;

(b) Is not detrimental to the health, safety or welfare of the occupants of nearby property or of the community generally;

(c) Involves no evidence outside any structure or visible from outside the structure that the activity is being conducted on the premises;

(d) Requires no vehicular or pedestrian traffic or parking in excess of that normally associated with a strictly residential use of the premises;

(e) Is not a use which is an otherwise prohibited use in a residential area.

(Ord. 433 § 1, 1994: Ord. 221 § 4 (part), 1980)

6-328 Hotel.

"Hotel" means a building or part of it containing six or more guest rooms designed, intended to be used, or used by six or more persons for money, goods, services or other compensation. Excepted are buildings where occupants are housed or detained under legal restraint, buildings for the refuge, maintenance or education of needy, aged, infirm or young persons and buildings where patients or injured persons receive medical or surgical treatment.

(Ord. 221 § 4 (part), 1980)

6-329 Reserved.

6-330 Reserved.

6-331 Kitchen.

"Kitchen" means any room or portion thereof containing facilities designed or used for the preparation of food, including but not limited to stoves, ranges, ovens and/or hot plates.

(Ord. 240 § 4, 1981)

6-332 Inner court.

"Inner court" means a court enclosed either in whole or in part on all sides by buildings.

(Ord. 221 § 4 (part), 1980)

6-333 Landscaping.

"Landscaping" means the following unless specifically noted to the contrary: walks, fences, retaining walls, stairs, terraces, surface drainage necessary for landscape development, irrigation (lawn and hose bibb systems), pools, fountains, recreation areas, garden lighting; rough grading, excavation, filling and fine grading required for preparation of an area for planting; and general planting (lawns, shrubs, trees and ground covers). Excluded are roads, parking areas, driveways, general site drainage, fire hydrants, public sidewalks and public utility items.

(Ord. 221 § 4 (part), 1980)

6-334 Livestock.

"Livestock" means domestic farm animals such as horses, cows, sheep, goats, ostrich and emu.

(Ord. 221 § 4 (part), 1980)

(Ord. No. 631, § 4(exh. B), 10-27-2014)

6-335 Lot.

"Lot" means a parcel or area of land occupied or to be occupied by a building and buildings accessory thereto, together with such open and yard spaces as are required by the provisions of Part 2 of this title. In computing the area of a lot, those portions lying within the exterior boundaries of an existing or proposed public

or private road, street, highway, right-of-way, or easement owned, dedicated or used for purposes of vehicular or pedestrian access to the lot shall not be included in order to satisfy minimum area, yard or dimensional requirements.

In the case of a flag lot, the pole portion of the lot, the primary function of which is connecting the building site (flag portion) to a public or private street must be at least 20 feet wide and is excluded from the calculation of the lot area requirements.

(Ord. 468 § 1, 1998: Ord. 221 § 4 (part), 1980)

6-336 Motel.

"Motel" means detached or attached dwelling units providing automobile storage space for each dwelling unit and providing transient living accommodations primarily for automobile travelers.

(Ord. 221 § 4 (part), 1980)

6-337 Multiple-family building.

"Multiple-family building" means a detached building designed and used exclusively as a dwelling by three or more families occupying separate suites or apartments.

(Ord. 221 § 4 (part), 1980)

6-338 Multiple-family building group.

"Multiple-family building group" means two or more detached single-family buildings, duplexes or multiple-family buildings occupying a parcel of land in one ownership, with common yards.

(Ord. 221 § 4 (part), 1980)

6-339 Multiple-family dwelling.

"Multiple-family dwelling" means a dwelling including one and only one kitchen and designed for occupancy as a residence of one family, and located in a multiple-family building.

(Ord. 240 § 5, 1981)

6-340 Reserved.

6-341 Reserved.

6-342 Nonaccessory sign.

"Nonaccessory sign" means any surface, or portion thereof, on which letters, figures or pictorial matter is displayed for purposes of advertising other than the name and occupation of the user of the premises on which such surface is located, or advertising other than the nature of the business or activity conducted thereon, or advertising of goods and services other than those primarily sold or produced thereon.

(Ord. 221 § 4 (part), 1980)

6-343 Nonconforming use.

"Nonconforming use" means a use of land, building or structure on land that does not conform to this Part 2 of this title for the district in which it is situate.

(Ord. 221 § 4 (part), 1980)

6-344 Repealed by Ordinance 240.

6-345 Repealed by Ordinance 240.

6-346 Rear yard.

"Rear yard" means an open area extending across the rear of a lot, measured from the rear line toward the front to the nearest line of any building on the lot.

(Ord. 221 § 4 (part), 1980)

6-347 Residential business.

"Residential business" means an activity conducted by a person at his principal place of residence as a means of livelihood or in expectation of profit, which may involve more than one nonresident employee employed in the business at the residence, and which:

(a) Does not change the residential character of the dwelling;

(b) Is not detrimental to the health, safety or welfare of the occupants of nearby property, or of the community generally;

(c) Involves no activity which is incompatible because of noise, vibration, glare, odor or appearance with the surrounding land uses; and

(d) Requires no vehicular or pedestrian traffic or parking in excess of that normally associated with a strictly residential use of the premises.

(Ord. 221 § 4 (part), 1980)

6-348 Retail business.

"Retail business" means the sale, barter and exchange of retail goods, wares, merchandise, services or other personal or real property or any interest in them for profit or livelihood; and includes all types of business and professional offices.

(Ord. 221 § 4 (part), 1980)

6-349 Reserved.

6-350 Single-family dwelling.

"Single-family dwelling" means a dwelling including one and only one kitchen, designed for occupancy as a residence of one family and located on a single lot of its own. This includes manufactured homes certified under the National Manufactured Home Construction and Safety Standards Act of 1974, and any subsequent revisions

thereto, and conforming to the requirements of Section 6-527 of this code. Employee/farmworker housing that serves six or fewer persons is included in this definition.

(Ord. 275 § 3, 1982: Ord. 240 § 6, 1981)

(Ord. No. 618, § 3, 8-12-2013)

6-350.5 Single Housekeeping Unit.

"Single Housekeeping Unit" means use of a dwelling unit in a way that satisfies each of the following criteria:

1. The residents have established ties and familiarity and interact with each other.

2. Membership in the single housekeeping unit is fairly stable as opposed to transient or temporary.

3. Residents share meals, household activities, expenses, or responsibilities.

4. All adult residents have chosen to jointly occupy the entire premises of the dwelling unit and they each have access to all common areas.

5. If the dwelling unit is rented, each adult resident is named on and is a party to a single written lease that gives each resident joint use and responsibility for the premises.

6. Membership of the household is determined by the residents not by a landlord, property manager or other third party.

7. The residential activities of the household are conducted on a nonprofit basis.

8. Residents generally do not have separate entrances or separate secured food-storage facilities such as cabinets or refrigerators.

6-351 Side yard.

"Side yard" means an open area between each side line of a lot and the nearest line of any building on the lot and extending from the front line to the rear line of the lot.

(Ord. 221 § 4 (part), 1980)

6-352 Repealed by Ordinance 240.

6-353 Small farming.

"Small farming" means horticulture on a small area of land and the raising and keeping of more than 24 fowl, rabbits, other grain-fed rodents, or livestock.

(Ord. 221 § 4 (part), 1980)

6-354 Story.

"Story" means that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and ceiling or roof above. If the finished floor level directly above a basement, cellar or unused under-floor space is more than six feet above the ground adjacent to the building for more than 50 percent of the total perimeter or is more than 12 feet above ground at any point, such basement, cellar or unused under-floor space shall be considered a story.

(Ord. 221 § 4 (part), 1980)

6-355 Structure.

"Structure" means anything constructed or erected and permanently attached to land, except (a) a building as defined in Section 6-312 of this title; and (b) sidewalks, gateways, pipes, meters, meter boxes, manholes, mailboxes, poles and wires, and appurtenant parts of all devices for the transmission and transportation of electricity and gas for light, heat or power, devices for the transmission of telephone and telegraphic messages, and devices for the transportation of water.

(Ord. 243 § 1, 1981: Ord. 221 § 4 (part), 1980)

6-356 Repealed by Ordinance 240.

6-357 Repealed by Ordinance 240.

6-358 Townhouse.

"Townhouse" means an attached or detached family unit with air space or air space and yard space for each individual unit. Townhouse ownership may include ownership of common grounds or facilities.

(Ord. 221 § 4 (part), 1980)

6-358.5 Vacant Lot.

"Vacant lot" means any parcel or lot having no permanent structures, is undeveloped, or contains a permanent structure that is abandoned and uninhabitable for a period of at least one year.

6-359 Yard.

"Yard" means an open space other than a court, on the same lot with the building, which open space is unobstructed from the ground upward to the sky, except as otherwise provided in this Part 2 of this title. In determining the dimensions of a yard as provided in this Part 2, the line of the building shall mean a line drawn parallel to the nearest lot line through the point of a building which is the nearest building to the lot line, without regard to parts of the building designated in this Part 2 as parts not to be considered in measuring yard dimensions. (Ord. 221 § 4 (part), 1980)

6-534 Supportive care criteria.

(a) Foster Home. The provision of 24-hour residential care for six or fewer minors, including those who are mentally, developmentally or physically disabled and/or handicapped requiring special care and supervision as a result of such disabilities (also known as a small family home), residing in the residence of the foster parents as further defined in the California Health and Safety Code Section 1502.

(b) Group Home. ~~The provision of 24-hour residential care for six or fewer minors, by licensed staff in a structured environment as further defined in the California Health and Safety Code Section 1502~~. The provision of 24-hour residential care for a wide variety of persons with special needs, including but not limited to licensed group homes, unlicensed group homes, recovery residences or sober living homes, and community care facilities in any of the following configurations: six or fewer minors, by licensed staff in a structured environment as further defined in the California Health and Safety Code Section 1502.

(1) Group Homes that Do Not Provide Licensable Services. The City will permit group homes that operate as single-family residences and that do not provide licensable services to locate in all residentially-zoned neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.

(2) Group Homes that Provide Licensable Services to Six or Fewer Residents. The City will permit group homes that operate as single-family residences and that provide licensable services to six or fewer residents to locate in in all residentially-zoned neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.

(3) Group Homes that Provide Services to Seven or More Residents with Disabilities. The City will permit group homes that operate as single-family residences and that provide service to seven or more residents with disabilities to locate in all residentially-zoned neighborhoods, subject only to the generally applicable, nondiscriminatory health, safety, and zoning laws that apply to all single-family residences.

(c) Health Care. The provision of residential care for six or fewer patients for temporary rehabilitation of an injury or illness.

(d) Senior Residential Care. The provision of residential care for six or fewer senior residents, 60 years or older and are in need of 24-hour care pursuant to Chapter 6-11.5 of the LMC.

(e) Supportive Housing. The provision of residential care which includes supportive services that help residents improve their health and maximize their ability to live and work in the community and may include treatment for developmental disabilities, chronic illnesses, or substance abuse as further defined in the Government Code Section 65582 and shall be considered a residential use of the property and subject only to the restrictions that apply to other dwelling units of the same type in the same zone.

(f) Transitional Housing. The provision of residential care for a minimum of six months and a maximum of two years, for homeless individuals and families transitioning to permanent housing as further defined in the Government Code Section 65582 and shall be considered a residential use of the property and subject only to the restrictions that apply to other dwelling units of the same type in the same zone.

(g) Permanent Supportive Housing. Permanent supportive housing shall be a use by right in zones where multifamily and mixed uses are permitted, including nonresidential zones permitting multifamily uses, if the proposed housing development satisfies all of the following requirements:

(1) Units within the development are subject to a recorded affordability restriction for 55 years.

(2) One hundred percent of the units, excluding managers' units, within the development are dedicated to lower income households and are receiving public funding to ensure affordability of the housing to lower income Californians. For purposes of this paragraph, "lower income households" has the same meaning as defined in Section 50079.5 of the Health and Safety Code.

(3) At least 25 percent of the units in the development or 12 units, whichever is greater, are restricted to residents in supportive housing who meet criteria of the target population. If the development consists of fewer than 12 units, then 100 percent of the units, excluding managers' units, in the development shall be restricted to residents in supportive housing.

(4) The developer provides the planning agency with the information required by Government Code Section 65652 pertaining to documentation demonstrating that supportive services will be provided onsite and describing those services.

(Ord. No. 635, § 4(exh. A), 10-14-2014)

C = General Commercial (35 DU/A)
C-1 = General Commercial -1 (35 DU/A)
RB = Retail Business (35 DU/A)
SRB = Special Retail Business (35 DU/A)
MRA = Multiple Family Residential District A (35 DU/A)

C-60 = General Commercial -60 (60 DU/A)
C-1-60 = General Commercial -1-60 (60 DU/A)
RB-60 = Retail Business -60 (60 DU/A)
SRB-60 = Special Retail Business -60 (60 DU/A)
MRB = Multiple Family Residential District B (35 DU/A)

MRO = Multiple Family Residential / Office (35 DU/A)

MRP = Multiple Family / Professional Office (35 DU/A)

P = Permitted by right L = Land Use Permit required -- = Not Permitted

#	USE	SRB	SRB-60	RB	RB-60	C	C-60	C-1	C-1-60	MRA	MRB	MRO	MRP
1	Administrative	L (1)	L (1)	P/L (2)	P/L (2)	P	P	P (3)	P (3)	--	--	--	P (11)
2	Administrative civic	P	P	P	P	P	P	L	L	--	--	--	--
3	Animal care, commercial	--	--	--	--	--	--	P	P	--	--	--	--
4	Auto repair and cleaning	--	--	--	--	--	--	L	L	--	--	--	--
5	Auto sales, rental and delivery	--	--	--	--	--	--	L	L	--	--	--	--
6	Auto servicing	--	--	--	--	L	L	L	L	--	--	--	--
7	Business and communication services	P/L (4)	P/L (4)	P/L (4)	P/L (4)	P	P	P	P	--	--	--	P (11)
8	Charitable/philanthropic institutions											L	L
9	Commercial automotive fee parking	L	L	L	L	L	L	L	L	--	--	--	--
10	Commercial laundry and dry cleaning	--	--	--	--	L	L	L	L	--	--	--	--
11	Commercial recreation	L	L	L	L	L	L	L	L	--	--	--	--
12	Community assembly and education	--	--	--	--	L	L	L	L	L	L	L	--
13	Community buildings, clubs, and activities of a quasi-public character											--	L
14	Consultative service	L (1)	L (1)	P/L (2)	P/L (2)	P	P	P (3)	P (3)	P (10)	--	P	P

#	USE	SRB	SRB-60	RB	RB-60	C	C-60	C-1	C-1-60	MRA	MRB	MRO	MRP
15	Construction sales and service	--	--	--	--	L	L	L	L	--	--	--	--
16	Convalescent or boarding homes											L	L
17	Convenience market	--	--	--	--	L	L	L	L	--	--	--	--
18	Day care and educational services	--	--	L	L	L	L	L	L	L		L	--
19	Fast food restaurant	P/L (5)	P/L (5)	P/L (5)	P/L (5)	P/L (5)	P/L (5)	P/L (5)	P/L (5)	--	--	--	--
20	Financial service	L (1)	L (1)	L (2)	L (2)	L	L	--	--	--	--	--	--
21	Firearm sales	--	--	--	--	--	--	L	L	--	--	--	--
22	Full-service restaurant	P	P	P	P	P	P	L	L	--	--	--	--
23	General commercial sales & service	--	--	--	--	P/L (6)	P/L (6)	P/L (6)	P/L (6)	--	--	--	--
24	General food sales	P/L (4)	P/L (4)	P/L (4)	P/L (4)	--	--	L	L	--	--	--	--
25	General personal service	P	P	P	P	P	P	P	P	--	--	--	P (11)
26	General retail sales	P	P	P	P	--	--	P (7)	P (7)	--	--	--	--
27	Health care	--	--	--	--	L	L	--	--	--	--	--	--
28	Home/Business furnishings	P/L (4)	P/L (4)	P/L (4)	P/L (4)	P	P	P	P	--	--	--	--
29	Home occupations											P	P
30	Hotels and motels	--	--	--	--	L	L	L	L	--	--	--	--
31	Light manufacturing and research	--	--	--	--	L	L	L	L	--	--	--	--

32	Limited child care (≤9 children)	P	P	P	P	P	P	P	P	P	P	P	--
33	Medical service					L (8)	L (8)	P (9)	P (9)	P (10)		P	P
34	Nursery schools											--	L
35	Publicly owned buildings											L (13)	L (13)
36	Real estate sales and service			L (2)	L (2)	P	P	L	L	--	--	--	P (11)
39	Residential - Multi-Family*	P	P	P	P	P	P	P	P	P	P	P	P
40	Residential business	L	L	L	L	L	L	L	L	L	L	L	L
41	Sales representatives & goods brokers	L	L	L	L	P	**P**	--	**--**	--	--	--	P (11)
42	Self-service laundry/dry cleaning	L (12)	L (12)	L (12)	L (12)	P (12)	P (12)	L (12)	L (12)	--	--	--	--
43	Undertaking service	--	--	--	--	L	L	L	L	--	--	--	--

#	**USE**	SRB	SRB-60	RB	RB-60	C	C-60	C-1	C-1-60	MRA	MRB	MRO	MRP
44	Utility distribution and civic service	L	L	L	L	L	L	L	L	--	--	--	--
45	Uses which the Planning Commission has found, after notice and hearing, to be comparable to the above uses or which are determined to be compatible with the uses and purpose of the district.	--	--			L	L	L	L	L	L	L	L

1. Not permitted on the ground floor; for exceptions see the SRB zoning regulations
2. Permitted on upper floors; land use permit required on ground floor
3. Permitted at designated sites – see Section 6-997

4. Permitted if area is less than 2,000 sq.ft.; Land Use Permit is required for more than 2,000 sq.ft.
5. Permitted without a drive-through, drive-up or pass-through window;
   Land Use Permit required for a drive-through, drive-up or pass-through window; see also SRB zoning regulations
6. Permitted if area is under 7,500 sq.ft., use permit required over 7,500 sq.ft.
7. Permitted only in the Brown Avenue Overlay Area – see Section 6-983
8. Cumulative gross floor area is restricted to a maximum of 3,000 sq.ft.
9. Permitted only in the Golden Gate Way Overlay Area – see Section 6-983
10. Permitted if building permits were issued for the use before 6/1/82 & if not converting residential to nonresidential – see Section 6-823
11. Permitted if determined by the Planning Director to be compatible with the purpose of the district – see Section 6-8103
12. Permitted if the facility complies with Section 6-532
13. Except a local agency is regulated as provided in Government Code Sections 53091 through 53096 ; see Section 6-516

* For multifamily projects on properties identified as opportunity sites in the 6th Cycle Housing Element to meet Regional Housing Needs Allocation, in which 20 percent or more of the units are affordable to lower income households (as set forth in Sections 50079.5, 50093, and 50105 of the Health and Safety Code), owner-occupied and rental multifamily uses are considered a use by right pursuant to subdivisions (h) and (i) of Government Code Section 65583.2 and shall be approved ministerially.

Article 2. Repealed by Ordinance XXX. ~~General Agricultural District~~

~~6-1321 General.~~

~~All land in the general agricultural district (map symbol A-2) shall be used in accordance with the provisions of this article.~~

~~(Ord. 70 § 1 (part), 1971)~~

~~6-1322 Uses permitted.~~

~~The following uses are permitted in the A-2 district:~~

~~(a) A detached single-family dwelling on each lot, and the accessory structures and uses normally auxiliary to it;~~

~~(b) All types of agriculture, including general farming, horticulture, floriculture, nurseries and greenhouses, mushroom rooms, dairying, livestock production, fur farms, poultry raising, animal breeding, aviaries, apiaries, forestry and similar agricultural uses;~~

~~(c) A stand not exceeding 200 square feet in size for the sale of agricultural products grown on the premises, if the stand is set back at least 25 feet from the front property line;~~

~~(d) Other agricultural uses, including erection and maintenance of sheds, warehouses and buildings for the storage of agricultural products and equipment;~~

~~(e) Foster home or family care home operated by a public agency, or by a private agency which has obtained state or local approval (license) for the proposed operation, where not more than six minors reside on the premises with not more than two supervisory persons;~~

~~(f) Residential care home for the aged, operated by a public agency, or by a private agency which has obtained state or local approval (license) for the proposed operation, where not more than six aged persons reside on the premises with not more than two supervisory persons;~~

~~(g) A home occupation.~~

~~(Ord. 115 § 3 (part), 1973; Ord. 70 § 1 (part), 1971)~~

~~6-1323 Uses requiring a permit.~~

~~In the A-2 district, the following uses are permitted after the issuance of a land use permit:~~

~~(a) Residential businesses;~~

~~(b) Churches and religious institutions, and parochial and private schools, including nursery schools;~~

~~(c) A second unit which complies with Chapter 6-5, Article 3 of this title;~~

~~(d) Publicly owned buildings and structures, except as provided in Section 6-516;~~

~~(e) Publicly owned parks and playgrounds;~~

(f) Community buildings, clubs and activities of a quasi-public, social or fraternal character; and private recreational facilities, such as golf clubs, swimming pools and tennis clubs, whether or not operated for profit;

(g) Dude ranches, riding academies and stables;

(h) Uses which the planning commission has found, after notice and hearing, to be comparable to the uses enumerated in this section;

(i) Multiple pet activity, but only on parcels 20,000 square feet in size or larger;

(j) Kennel activity.

(Ord. 300 §§ 3 (part), 4 (part), 1984; Ord. 266 §§ 13—14, 1982; Ord. 240 § 2, 1981: Ord. 120 §§ 1 (part), 2 (part), 1973; Ord. 115 § 5 (part), 1973; Ord. 70 § 1 (part), 1971)

6-1324 Lot area.

No agricultural pursuit shall be conducted, nor shall any structure or building permitted in the A-2 district be erected, placed or established on a lot smaller than 40,000 square feet in area.

(Ord. 70 § 1 (part), 1971)

6-1325 Lot width.

No agricultural pursuit shall be conducted, nor shall any structure or building permitted in the A-2 district be erected, placed or established on a lot less than 140 feet in average width.

(Ord. 70 § 1 (part), 1971)

6-1326 Lot depth.

No agricultural pursuit shall be conducted, nor shall any structure or building permitted in the A-2 district be erected, placed or established on a lot less than 140 feet deep.

(Ord. 70 § 1 (part), 1971)

6-1327 Height.

(a) No single-family dwelling or other structure permitted in this district may exceed 35 feet in height or two and one-half stories.

(b) Structures higher than 30 feet in height shall be subject to approval of the design review commission and the findings contained in Section 6-1905.

(Ord. 386 § 5 (part), 1991)

6-1328 Side yards.

No side yard in the A-2 district shall be less than 20 feet in width. No barns, stables, apiaries, aviaries or other buildings or structures used to house livestock, grain-fed rodents, bees, birds or poultry shall be located in this district nearer than 50 feet to the boundary line of any residential land use district.

(Ord. 70 § 1 (part), 1971)

6-1329 Setback.

There shall be a setback (front yard) of at least 25 feet for any structure in the A-2 district, except on corner lots, where the principal frontage of the lot shall have a setback of at least 25 feet and the other setback shall be at least 20 feet.

(Ord. 70 § 1 (part), 1971)

6-1330 Rear yard.

There shall be a rear yard of at least 15 feet for any structure in the A-2 district.

(Ord. 70 § 1 (part), 1971)

6-1331 Modifiable sections.

Land use permits for the special uses enumerated in Section 6-1323 and variance permits to modify the provisions of Sections 6-1324 to 6-1330, inclusive, may be granted in accordance with the applicable provisions of Chapter 6-1 of this title.

(Ord. 70 § 1 (part), 1971)

6-1332 Special regulations applicable to commercial recreation facilities in use on April 5, 1972.

(a) Findings and Declaration of Purpose.

(1) Land classified to the A-2 land use district is located in remote, rural areas. It is not easy to reach by personnel or equipment used to provide public safety services. The roads which lead to and serve land classified to this land use district are narrow, usually dead-end, usually not accepted for maintenance by the city and typically in poor repair. These areas are basically grassland where fire hazard is extreme in the summer months. In the winter months heavy rains can cause slides and the sloughing of rocks and mud onto roadways, which increases the possibility that a road may be blocked by a motor vehicle, thus isolating people without means of egress. In addition, intensive land use in these areas can damage the land and the vegetation, and this tends to contribute to erosion and scarring of hillsides, resulting in further deterioration of the environment.

(2) There exists at least one instance of a commercial recreational facility in this land use district characterized by these conditions. Because of the character and intent of this land use district and the general incompatibility of its purpose and the commercial recreational uses which were permitted under former county zoning regulations for this land use district, it is necessary to adopt the regulations set forth in this section for the purpose of protecting the public health, safety and welfare and carrying out the purposes of the zoning regulations of the city.

(b) Applicability. The regulations in this section apply to each commercial recreation facility which existed under the land use regulations of Contra Costa County and continued to exist under the land use regulations of the city of Lafayette, all as provided in Section 8156 of the County Ordinance Code. This section does not authorize the commencement, extension or expansion of a commercial recreational facility and applies to such facility to the extent that the use is a legal nonconforming commercial recreational facility under the provisions of this article.

(c) Special Regulations. The following regulations supersede any other regulations inconsistent therewith and apply to each commercial recreational facility which continues its operation in this land use district as a legal nonconforming use.

(1) Not more than 400 persons may be permitted on the premises at any one time.

(2) Not more than 200 motor vehicles may be permitted on the premises at any one time.

(3) Public sanitation facilities shall comply with the standards imposed by the health officer of the city.

(4) No physical change in the use existing on April 5, 1972 is permitted other than ordinary maintenance and repair. There may be no increase or enlargement of the area, space or volume occupied and used. If the use is replaced by a conforming use, the commercial recreational nonconforming use is automatically terminated. A building or structure devoted to a commercial recreational use may be altered only if the alteration does not exceed an aggregate cost of 15 percent of the replacement value of the building or structure. A nonconforming building or structure may be rebuilt and continued in use only if it is damaged by fire, explosion or acts of God which occur after April 5, 1972 and if the expense of the work does not exceed 40 percent of the replacement value of the damaged building or structure.

(5) The city may issue a special permit which allows the owner to hold a special event which may exceed the attendance limitations set by subparagraphs (1) and (2) of this subsection (c). The council may issue the permit or by resolution may delegate this authority to the planning commission or to the city manager. The special permit is good for one day only and it is subject to all the terms and conditions which the city may prescribe.

(Ord. 81 § 1, 1972)

Article 3. Repealed by Ordinance XXX. Heavy Agricultural District

6-1341 General.

All land in the heavy agricultural district (map symbol A-3) shall be used in accordance with the provisions of this article.

(Ord. 70 § 2 (part), 1971)

6-1342 Uses permitted.

The following uses are permitted in the A-3 district:

(a) A detached single-family dwelling on each lot and the accessory structures and uses normally auxiliary to it;

(b) All types of agriculture, including general farming, horticulture, floriculture, nurseries and greenhouses, mushroom rooms, dairying, livestock production, fur farms, poultry raising, animal breeding, aviaries, apiaries, forestry and similar agricultural uses;

(c) A stand not exceeding 200 square feet in size for the sale of agricultural products grown on the premises, if the stand is set back at least 25 feet from the front property line;

(d) Other agricultural uses, including the erection and maintenance of sheds, warehouses and buildings for the storage of agricultural products and equipment.

(Ord. 70 § 2 (part), 1971)

6-1343 Uses requiring a permit.

In the A-3 district the following uses are permitted on the issuance of a land use permit:

(a) Publicly owned buildings and structures, except as provided in Section 6-516;

(b) Publicly owned parks and playgrounds;

(c) Dude ranches, riding academies and stables;

(d) Living accommodations to be used primarily for temporary housing of agricultural workers while they are performing seasonal agricultural work on the property of the owner;

(e) Livestock auction or sales yards;

(f) Processing of milk not produced on the premises;

(g) Commercial radio and television receiving and transmitting facilities, but not including broadcasting studios or business offices;

(h) Uses which the planning commission has found, after notice and hearing, to be comparable to the uses enumerated in this section;

(i) Multiple pet activity, but only on parcels of land 20,000 square feet in size or larger;

(j) Kennel activity;

(k) A second unit which complies with Chapter 6-5, Article 3 of this title.

(Ord. 333 § 1, 1985; Ord. 300 § 4 (part), 1984; Ord. 266 §§ 15—16, 1982; Ord. 70 § 2 (part), 1971)

6-1344 Lot area.

No agricultural pursuit shall be conducted and no structure permitted in the A-3 district shall be erected or placed on a lot smaller than ten acres, except that poultry raising, raising of grain-fed rodents, berry farming, greenhouses and nurseries, mushroom rooms, fur farms, aviaries and apiaries may be permitted on a lot at least two and one-half acres in area.

(Ord. 70 § 2 (part), 1971)

6-1345 Lot width.

No agricultural pursuit shall be conducted, and no structure permitted in the A-3 district shall be erected or placed on a lot less than 140 feet in average width.

(Ord. 70 § 2 (part), 1971)

6-1346 Lot depth.

There shall be no minimum lot depth in the A-3 district.

(Ord. 70 § 2 (part), 1971)

6-1347 Height.

(a) No single-family dwelling or other structure permitted in this district may exceed 35 feet in height or two and one-half stories.

(b) Structures higher than 30 feet in height shall be subject to approval of the design review commission and the findings contained in Section 6-1905.

(Ord. 386 § 5 (part), 1991)

6-1348 Side yards.

No side yards in the A-3 district shall be less than 25 feet wide; barns, stables and other buildings or structures used to house livestock, grain-fed rodents, or poultry shall be at least 50 feet from the boundary line of any residential land use district.

(Ord. 70 § 2 (part), 1971)

6-1349 Setback.

There shall be a setback (front yard) of at least 25 feet for any building or structure in the A-3 district.

(Ord. 70 § 2 (part), 1971)

6-1350 Rear yard.

There shall be a rear yard of at least 25 feet for any building or structure in the A-3 district.

(Ord. 70 § 2 (part), 1971)

6-1351 Modifiable sections.

Land use permits for the special uses enumerated in Section 6-1343 and variance permits to modify the provisions of Sections 6-1344 to 6-1350, inclusive, may be granted in accordance with the applicable provisions of Chapter 6-1 of this title.

(Ord. 70 § 2 (part), 1971)

Chapter 6-34 REASONABLE ACCOMMODATION

Sections:

6-3401 Purpose.

The city of Lafayette's policy is to comply with the Federal Americans with Disabilities Act, the Federal Fair Housing Act and the California Fair Employment and Housing Act by providing reasonable accommodation in the application of its land use and zoning regulations and reasonable modification in a policy, practice, or procedure for housing designed for occupancy by qualified persons with disabilities seeking fair access to housing. The city also recognizes the importance of sustaining and enhancing residential neighborhoods. This chapter is intended solely for residential use. In determining whether a requested modification is reasonable, the city will consider, among other relevant factors, the extent to which the modification might be in conflict with the legitimate purposes of its existing zoning regulations, including where relevant, those regulations aimed at sustaining residential neighborhoods and preserving a suitable environment for family life. The purpose of this chapter is to provide a process for making and acting upon requests for reasonable accommodation.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3402 Definitions.

(a) "Housing designed for occupancy by, or with supportive services for persons with disabilities" includes a wide range of housing types, including, but not limited to, housing that is physically accessible to people with mobility impairments, residential care facilities for individuals with disabilities or for the elderly, group homes, housing for individuals with Alzheimer's disease, housing for persons with HIV/AIDS, housing with support services and transitional housing that serve homeless with disabilities.

(b) "Person with disabilities" means an individual who has a physical or mental impairment that substantially limits one or more of the major life activities of such individual.

(c) "Reasonable accommodation and modification" means the act of making facilities used by residents readily accessible to and usable by individuals with disabilities, through the removal of constraints within the land use, zoning, permit and processing procedures.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3403 Application required.

(a) Any person who requests reasonable modification, based on the disability of residents, in the application of a land use or zoning law which may be acting as a barrier to fair housing opportunities, may do so on a form prescribed for that purpose by the city.

(b) If the project for which the request is being made also requires some other planning permit or approval, then the applicant shall file the request together with the application for such permit or approval.

(c) If the zoning administrator finds that the proposed development is minimal in nature and complies with the purpose and intent of this chapter and/or other related chapters of this title, the zoning administrator may waive the requirement for related discretionary permits, including, but not limited to, a hillside development permit.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3404 Submittal requirements.

The applicant shall provide the following information:

(a) Applicant's name, address, and telephone numbers;

(b) Project property address;

(c) The current use of the property;

(d) The zoning code provision, regulation, or policy from which the modification is being requested;

(e) The basis for the claim that the person(s) and the housing for which modification is sought qualify under Sections 6-3402(a) and (b) of this chapter, and why the modification is reasonably necessary;

(f) Other relevant information as requested by the zoning administrator or his or her designee; and

(g) Upon request and when necessary to establish a substantial impairment or the need for a modification, a medical certification may be required (this will not be required where the impairment and need for modification are readily apparent).

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3405 Procedures for reasonable accommodation and modification.

The procedure for reasonable modification is as follows:

(a) Application. An application shall be filed with the zoning administrator on a form approved by the city. The application shall include all submittal requirements as described in Section 6-3404 of this chapter. If assistance is needed to complete the application, or an alternative format for the application is necessary, the zoning administrator should be contacted for assistance.

(b) Public Notice. Within ten days of deeming an application complete, a notice of pending application shall be sent to all property owners within 300 feet of the subject property. If the zoning administrator finds that the request for reasonable modification is de minimus in nature and complies with the purpose and intent of this chapter, the zoning administrator may waive the requirement for public notification. If a notice is appropriate, it shall include the following information:

(1) Description of reasonable modification request;

(2) Statement about the scope of application review permitted by this chapter;

(3) Date by which public comments regarding the application shall be submitted for consideration;

(4) Date that the zoning administrator shall make a determination on the application; and

(5) Appeal rights as described in Section 6-3406 of this chapter.

(c) Determination. Within 30 days of deeming an application complete, the zoning administrator shall approve, conditionally approve, or deny the application.

(d) Expiration of Permit. The permit is valid for 12 months from the date of issuance unless a longer period is stated in the permit. If the applicant does not begin the work authorized by the permit by the expiration date, the permit shall expire. The applicant may request one 12-month extension from the zoning administrator.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3406 Appeals.

A person desiring to appeal the determination of the zoning administrator regarding the approval, conditional approval, or denial of a request for reasonable modification shall file a notice of appeal with the city clerk within 14 days after the date of determination. The city council will consider the appeal within 30 days after the notice is filed. The city council shall limit its consideration of the appeal to whether the reasonable modification meets the findings in Section 6-3407 of this chapter. There shall be no appeal fee for appealing a denial of a request for reasonable modification.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3407 Specific findings required.

In making a determination regarding the reasonableness of a requested modification, the following factors shall be considered:

(a) Special needs created by the disability;

(b) Potential benefit that can be accomplished by the requested modification;

~~(c) Potential impact on surrounding uses;~~

(c~~d~~) Physical attributes of and any proposed changes to the subject property and structures;

(d~~e~~) Alternatives which may provide an equivalent level of benefit;

(e~~f~~) Whether the requested modification would impose an undue financial or administrative burden on the city;

(f~~g~~) Whether the requested modification would require a fundamental alteration in the nature or effect of the city's land use and zoning ordinances, programs or policies;

(g~~h~~) Whether the modification would create a "direct threat," which is a significant risk to the health or safety of others, that cannot be eliminated or reduced to an acceptable level by further modification of the city's policies, practices, or procedures; and

(h~~i~~) Whether the requested modification is consistent with the Federal Americans with Disabilities Act, the Federal Fair Housing Act and the California Fair Employment and Housing Act.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3408 Fees.

(a) There is no application fee associated with requests for reasonable modification.

(b) No application fee shall apply to the request for reasonable modification unless the request is made concurrently with an application for some other discretionary approval, in which case, the applicant shall pay only the required application fee for the discretionary approval.

(Ord. 556 § 2 (Exh. A) (part), 2006)

6-3409 Conditions of approval.

In granting a request for reasonable modification, the reviewing authority may impose any conditions deemed reasonable and necessary to ensure that the reasonable modification would comply with the findings required by Section 6-3407 of this chapter. Conditions may be imposed to ensure that any removable structures or physical design features that are constructed or installed in association with the reasonable modification be

removed once those structures or physical design features are no longer necessary for housing designed for a person with a disability. Any approval or conditional approval of an application may be conditioned to provide for its rescission or automatic expiration under appropriate circumstances.

(Ord. 556 § 2 (Exh. A) (part), 2006)

Chapter 6-35 EMERGENCY SHELTERS

Sections:

6-3501 Purpose.

The purpose of this Chapter is to provide temporary shelter for homeless persons or others in need in a manner that protects the health, safety, and general welfare of nearby residents and businesses, consistent with California Government Code § 65583, which requires all California cities to identify in their General Plan Housing Element at least one zone where emergency shelters are permitted by right without requiring discretionary permits or action, provided they comply with objective operating standards established by the City.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3502 Definition of emergency shelter.

In this chapter, unless the context otherwise requires:

"Emergency shelter" ~~means housing with minimal supportive services that is designed for and occupied by homeless persons for no more than six months in a consecutive 12-month period. No individual or household may be denied emergency shelter because of an inability to pay.~~ includes, but is not limited to, shelters, interim uses, navigation centers, bridge housing, and respite or recuperative care. It is intended that the housing provided by these uses be of short term, not permanent housing, and consistent with best practices for these interim uses.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3503 By-Right Allowance ~~Permit Required~~.

An emergency shelter that complies with the provisions of this Chapter shall be permitted within the General Commercial District 1 (C-1), pursuant to an emergency shelter ~~application~~ application~~permit~~.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3504 Emergency shelter ~~permit~~; application and issuance.

(a) An application for an emergency shelter ~~permit~~ shall be filed with the Zoning Administrator on a form approved by the City together with a fee fixed by resolution of the City Council. The Zoning Administrator shall approve an application that meets the development standards set forth in Section 6-3505 without discretionary review or a public hearing, as soon as practicable, and in no event more than 30 days after the application has been deemed complete.

(b) Pursuant to Section 6-250 of the Lafayette Municipal Code, this approval shall expire one year from the approval date unless a building permit has been issued for the project. The Zoning Administrator may extend the period to exercise the permit for up to one additional year upon a showing of good cause, if such request is received in writing prior to the expiration date.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3505 Development and management standards.

(a) Development standards. An emergency shelter shall conform to the development standards set forth below, as well as all development standards of the C-1 zoning district set forth in Title 6, Part 3, Chapter 6-9 of this Code, including the requirement for design review for any building constructed or altered to affect the exterior appearance. If there is a conflict between the C-1 development standards set forth in Title 6, Part 3, Chapter 6-9 of this Code and the standards set forth below, the standards set forth below shall be controlling:

(1) Proximity to Other Shelters. No emergency shelter shall be closer than 300 feet to another emergency shelter.

(2) Vehicle Parking. An emergency shelter shall provide one parking space for every four beds and one parking space for every employee.

(3) Bicycle Parking. An emergency shelter shall provide at least one bicycle space for every five beds.

(4) Shelter Capacity. No emergency shelter shall contain more than 30 beds, and the size of the facility must accommodate clients at a ratio of at least 200 square feet per person. The city council may establish a maximum number of beds to be allowed in all emergency shelters in the city by resolution. The maximum number of beds in all emergency shelters in the city shall not be less than the number of unsheltered homeless persons in Lafayette as determined in the bi-annual homeless count conducted by the Contra Costa Homeless Program.

(5) Length of Stay. The length of stay per individual in an emergency shelter shall not exceed six months in a consecutive 12-month period.

(6) Screening of Outdoor Uses. An emergency shelter shall not allow or include any of the following to occur in front of an emergency shelter or in any other location incidental to the shelter that is visible from adjoining properties or the public right-of-way, unless the same is entirely screened from public view:

(a) Designated outdoor smoking area;

(b) Outdoor waiting and client intake area;

(c) Outdoor public telephones; and

(d) Outdoor refuse area.

(7) Exterior Lighting. Lighting in or on an emergency shelter shall be stationary, directed away from adjacent properties and public rights-of-way, and of an intensity that is consistent with existing lighting in the neighborhood in which the shelter is located.

(8) Laundry Facilities. An emergency shelter shall provide laundry facilities to serve the number of residents.

(9) Personal Property Storage. An emergency shelter shall provide secure areas for temporary storage of personal property of the persons residing in the emergency shelter.

(b) Management Standards. An emergency shelter shall conform to the management standards set forth below:

(1) Emergency Shelter Management Plan. The operator of an emergency shelter shall prepare and submit a management plan to the Zoning Administrator that includes, as applicable, the following: established staff training program to meet the needs of emergency shelter residents; adequate security measures to protect emergency shelter residents and the neighboring land uses; a list of services provided to assist emergency shelter residents with obtaining permanent shelter and income; and a method of screening emergency shelter residents to ensure compatibility with services provided at or through the emergency shelter prior to admittance to the shelter.

(2) On-Site Management and Security Plan. Security measures shall be sufficient to protect clients and neighboring land uses. On-site management and on-site security shall be provided during the hours when the emergency shelter is in operation and at all times that clients are present on-site. An on-site staff person shall be designated as a neighborhood liaison to respond to, and address, any questions or concerns from surrounding residents regarding facility operations. Clients shall be screened for compatibility with shelter resources and for compliance with applicable State and Federal laws prior to admittance to the emergency shelter.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

6-3506 Appeals.

An appeal of a decision made pursuant to this chapter shall be brought and governed as set forth in Section 6-232 of this code.

(Ord. No. 610, § 1(exh. A), 9-10-2012)

Chapter 6-37 INCLUSIONARY HOUSING

Sections:

6-3701 Purpose.

The purpose of this chapter is to facilitate the development and availability of housing affordable to a broad range of households of various income levels and sizes in Lafayette. This chapter is intended to:

(a) Implement state policy that declares local governments have a responsibility to facilitate development to provide for the housing needs of all economic segments of the community;

(b) Implement the housing element of the general plan, which calls for the adoption of an inclusionary housing program;

(c) Facilitate the development of affordable housing units within a project; and

(d) Assist in the dispersal of affordable housing units throughout the ~~-~~City~~downtown~~.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3702 Definitions.

In this chapter, unless the context requires otherwise:

(a) "Affordable rent" means a rental rate that results in monthly housing costs, including utilities, that collectively do not exceed the following:

(1) For a very low-income household, one-twelfth of the product of 30 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For a low-income household, one-twelfth of the product of 30 percent times 80 percent of the area median income adjusted for family size appropriate for the unit.

(b) "Affordable sales price" means a sales price that results in monthly housing costs, including mortgage (principle and interest), property taxes, utilities, property insurance and homeowner association fees, that collectively do not exceed the following:

(1) For a very low-income household, one-twelfth of the product of 35 percent times 50 percent of the area median income adjusted for family size appropriate for the unit.

(2) For a low-income household, one-twelfth of the product of 35 percent times 80 percent of the area median income adjusted for family size appropriate for the unit.

(3) For a moderate-income household, one-twelfth of the product of 35 percent times 110 percent of the area median income adjusted for family size appropriate for the unit.

(c) "Area median income" means the combined salaries, wages or other sources of income of a single household, based upon household size, for Contra Costa County as published annually by the State of California Department of Housing and Community Development.

(d) "Downtown" means the area within the boundaries of the downtown specific plan map.

(e) "First time homebuyer" means a household that has had no ownership in a principal residence during the three-year period ending on the date of purchase of the affordable unit.

(f) "Inclusionary housing agreement" means a document that has been reviewed and approved by the planning and building director that delineates the exact requirements that a developer shall meet to fulfill the requirements under this chapter.

(g) "Inclusionary unit" means a dwelling unit that has an affordable sales or rental price for households for a household at the applicable income level under the requirements of this chapter.

(h) "Large family" means a household with five or more members.

(i) "Low-income household" means a household whose annual income does not exceed 80 percent of area median income, adjusted for household size as published by the State of California Department of Housing and Community Development for Contra Costa County.

(j) "Moderate-income household" means a household whose annual income does not exceed 110 percent of area median income, adjusted for household size as published by the State of California Department of Housing and Community Development for Contra Costa County, and would apply to for-sale moderate income housing.

(k) "Project" means a residential or mixed-use development creating a net increase of two or more for sale or rental dwelling units. This excludes a legal second unit unless that unit is built to satisfy the requirements of this chapter.

(l) "Very low-income household" means a household whose annual income does not exceed 50 percent of area median income, adjusted for household size as published by the State of California Department of Housing and Community Development for Contra Costa County.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3703 Basic provisions.

(a) Geographic Area. The provisions of this chapter applies City-wideF~~apply to the downtown~~.

(b) Development Size Threshold. The provisions of this chapter apply to all projects creating a net increase of two or more residential units.

(c) Income Calculations. The State of California calculates annual income limits for very low-, low- and moderate-income households that may vary from the definitions for such households contained in this chapter. In applying Sections 6-3702(a), (b), (g), (h) and (j) above to a proposed project, applicants may use the higher of the household income limits established in this chapter (50 percent of area median income for very low, 80 percent of area median income for low, and 110 percent of area median income for moderate), or the household income limits established by the State of California for the same income categories.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3704 Inclusionary percentage.

(a) Single-Family. For projects ~~in the downtown~~ creating single-family dwellings, 15 percent of the units must be inclusionary units sold or rented at an affordable price to moderate-income households.

(b) Multi-Family. For projects ~~in the downtown~~ creating multiple for sale family dwellings, 15 percent of the total units must be inclusionary units, with nine percent sold at an affordable sales price to low or moderate-income households and six percent sold to an affordable sales price of very low-income households.

For projects ~~in the downtown~~ that are multi-family rental dwellings, 15 percent of the total units must be inclusionary units, with nine percent rented at an affordable price to low-income households and six percent rented at an affordable price to very low-income households.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3705 Calculation of inclusionary units.

(a) To calculate the number of inclusionary units required, multiply 15 percent with the total number of units in the project.

(b) When six percent and nine percent are multiplied with the total units to determine the number for each respective income category and the result is less than one unit for each income category, then the total combined percentage may be affordable to low or moderate-income households.

(c) Notwithstanding subsections (a) and (b) above, a project with two to six units may elect to pay the applicable in-lieu fees and is not required to build inclusionary units.

(d) Notwithstanding subsections (a) and (b) above, a project with seven to 20 for-sale units may elect to make all of the inclusionary units affordable at moderate-income. Similarly, a project with seven to 20 rental units may elect to make all of the inclusionary units affordable at low-income.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3706 Fractional units.

If multiplying the required 15 percent with the total number of units results in other than a whole number, a result equal to or greater than one-half shall be rounded up to the next whole unit. An in-lieu fee shall be paid for a result less than one-half.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3707 In-lieu fee.

This chapter establishes provisions under which an in-lieu fee is collected for inclusionary units. The city council shall establish the amount based on an appropriate fee study and shall update the fee over time. The in-lieu fee requirements of this chapter shall be effective only after the city council has adopted or updated the fee by resolution.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3708 Segmentation.

Segmentation of a project in order to avoid the requirements of this chapter is not permitted. Construction of proximate dwelling units within any five-year period for which there is evidence of common ownership, control or interest, and whether or not covered by the same land use entitlements, shall be subject to the regulations of this chapter. However, nothing herein shall prohibit the phased development of a project, as approved by the city.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3709 Term of affordability.

(a) For-sale inclusionary units shall be restricted to the applicable income level for a period not less than 45 years.

(b) Rental inclusionary units shall be restricted to the applicable income level for a period not less than 55 years, including inclusionary units proposed as rentals under Section 6-3712 of this chapter.

(c) The term of for-sale units' affordability resets upon sale of the unit(s).

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3710 Design.

Inclusionary units must be dispersed throughout the project and be comparable in terms of bedroom count and exterior design to the market rate units. The inclusionary units must have access to all amenities available to the market rate units.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3711 Timing.

Inclusionary units must be constructed prior to or concurrently with the construction of the market rate units. The developer shall complete construction of all inclusionary units prior to final inspection of the final market rate unit. In phased developments, inclusionary units may be constructed and occupied in proportion to the number of units in each phase.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3712 Alternatives.

(a) Off-site Development. Instead of providing inclusionary units on-site to satisfy the requirements of this chapter, a developer may propose providing all or a portion of the inclusionary units off-site, including for-sale housing or rental housing (see subsection (b) for-rent alternative to fee or sale, below).

(1) In order to approve such a proposal, the city council must find that on-site production of such units is infeasible or that greater public benefit will result from the units being off-site.

(2) The city council shall require the provision of a minimum of one and may require up to two off-site units for every unit not provided on-site.

(3) Regardless of the number of off-site for-sale units that are required, 40 percent of the off-site units shall be affordable to very low-income households and 60 percent shall be affordable to low- or moderate-income households.

(4) Regardless of the number of off-site rental units that are required, 40 percent of the off-site units shall be affordable to very low-income households and 60 percent shall be affordable to low-income households.

(5) Nothing in this section shall obligate the council to allow any off-site units.

(6) A developer proposing to provide the inclusionary units off-site must provide a relocation plan for any current tenants that may be displaced by the development of affordable units at the off-site location.

(7) All other provisions of this chapter apply, whether the units are produced on-site or off-site.

(b) For-Rent Alternative to Fees or Sale.

(1) Ownership Projects. An applicant for a residential ownership project may elect to provide all or a portion of the inclusionary units required for the residential project at affordable rent to lower income households rather than provide for-sale units. Fifteen percent of the total units must be affordable to lower incomes, with nine percent rented at an affordable rent to low income households and six percent rented at an affordable rent to very low income households. If the applicant proposes to provide rental units off-site, 40 percent of the off-site rental units shall be affordable to very low-income households and 60 percent shall be affordable to low-income households.

(2) Sales of Affordable Rental Units. If the owner of the ownership project later determines to offer the affordable rental units in the project for sale at an affordable sales price, any subsequent regulatory

agreement shall include provisions for sale of the affordable units, as well as relocation benefits for tenants of the affordable rental units.

(3) All other provisions of Section 6-3712(a) apply, except Section 6-3712(a)(3).

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3713 Inclusionary housing agreement.

(a) An inclusionary housing agreement between the developer and the city shall be required for any project subject to the provisions of this chapter in a form approved by the planning and building director. The agreement shall be executed prior to issuance of a building permit.

(b) The inclusionary housing agreement shall contain the following information:

(1) The location, tenure (rental or ownership) and size of the proposed market rate and inclusionary units;

(2) The calculations used to determine the number of inclusionary units;

(3) A floor plan or site plan depicting the location of the inclusionary units;

(4) The affordability level for each inclusionary unit;

(5) The term of affordability;

(6) A phasing plan for phased developments;

(7) A description and details of any requested incentives, waivers or exemptions;

(8) For projects including a density bonus, documentation that the density bonus is requested for units provided that are inclusive of the city's inclusionary requirements;

(9) The process by which eligibility of qualified households will be reviewed and selected to rent or purchase affordable units;

(10) An annual reporting schedule and requirements;

(11) In for-sale housing, priority to first time home buyers and/or large families and in for-rent housing, priority to large families;

(12) Additional information as requested by the planning and building director.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3714 Allowances.

In approving an inclusionary housing agreement, the city may, at its sole discretion, include one or more of the following allowances:

(a) Unit Size Reduction. The size of the required inclusionary units may be smaller than the market rate units, consistent with all other provisions herein.

(b) Interior Finishes. Inclusionary units may have different interior finishes than market rate units so long as the interior features are durable, of good quality and consistent with current state building code standards for new housing.

(c) Accessory Dwelling Units. Projects consisting of single-family detached units may meet the inclusionary unit requirements by providing an accessory dwelling unit in accordance with the provisions of the city's accessory dwelling unit regulations on a one-for-one basis. All other requirements of this chapter, including income restrictions and term of affordability, shall be applied to second units.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)

6-3715 Reductions, adjustments, or waivers.

(a) A developer of a project subject to the requirements in this chapter may petition the city council for a reduction, adjustment, or waiver of these requirements based upon substantial evidence showing the absence of any reasonable relationship or nexus between the impact of the development and the inclusionary requirements.

(b) A project subject to the requirements of this chapter and which has received approval for a tentative subdivision or parcel map, use permit or other discretionary approval and submits a new or revised application for the same property may petition for a reduction, adjustment or waiver of the requirements with respect to the number of lots or square footage of construction previously approved.

(c) Any such petition shall be made in writing and filed with the planning and building department, along with the required fee established by city council resolution, not later than ten days before the first public hearing on any discretionary approval or permit for the development, or if no such discretionary approval or permit is required, or if the developer is protesting an action taken pursuant to this ordinance after the first public hearing on such permit or approval, then the petition shall be filed within ten days after the date of the action objected to by the developer. The petition shall set forth in detail the factual and legal basis for the claim of waiver, reduction, or adjustment.

(d) The city council shall consider the petition at the public hearing on the permit application or at a separate hearing within sixty days after the filing of the petition, the appellant shall bear the burden of presenting substantial evidence to support the petition including comparable technical information to support petitioner's position.

(e) No waiver shall be granted by the city council for a new project where a prior project was approved within the last three years unless the city council finds that:

(1) The new project is superior to the approved project both in its design and its mitigation of environmental impacts,

(2) Adequate affordable housing already exists in that the aggregate of new or substantially rehabilitated dwelling units within ~~the downtown~~ the City makes available more than 15 percent of such units at affordable housing cost to, and occupied by, persons and families of low and moderate income, and of such 15 percent, not less than 40 percent thereof is available at affordable housing cost to, and occupied by, very low-income households, or

(3) Exceptions to the affordable housing requirements will result in a better project that better meets the city's housing goals.

(f) The decision of the city council shall be final. If a reduction, adjustment, or waiver is granted, any change in the project shall invalidate the waiver, adjustment, or inclusionary requirements unless such change is approved by the city in advance.

(Ord. No. 645, § 4(exh. A), 6-13-2016; Ord. No. 659, § 4(exh. A), 9-25-2017; Ord. No. 663, § 1(exh. A), 6-25-2018)